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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/593,118	06/13/2000	James Howard Drew	99-836	5555
32127	7590	06/07/2007	EXAMINER	
VERIZON PATENT MANAGEMENT GROUP 1515 N. COURTHOUSE ROAD, SUITE 500 ARLINGTON, VA 22201-2909			ROBINSON BOYCE, AKIBA K	
			ART UNIT	PAPER NUMBER
			3628	
			NOTIFICATION DATE      DELIVERY MODE	
			06/07/2007	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patents@VERIZON.COM

<b>Office Action Summary</b>	Application No. .	Applicant(s)
	09/593,118	DREW ET AL.
	Examiner	Art Unit
	Akiba K. Robinson-Boyce	3628

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 03 May 2007.  
 2a) This action is FINAL.                            2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-13, 15-28, 30-43, 45-58 and 60-71 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-13, 15-28, 30-43, 45-58 and 60-71 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1)  Notice of References Cited (PTO-892)  
 2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3)  Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_.  
 4)  Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.  
 5)  Notice of Informal Patent Application  
 6)  Other: \_\_\_\_\_

## DETAILED ACTION

### ***Status of Claims***

1. Due to communications filed 5/3/07, the following is a final office action. Claims 1, 15, 16, 30, 31, 45, 46, 60, 61 and 63 have been amended. Claims 14, 29, 44 and 59 have been cancelled. Claims 1-13, 15-28, 30-43, 45-58 and 60-71 are pending in this application and have been examined on the merits. Claims 1-13, 15-28, 30-43, 45-58 and 60-71 are rejected as follows.

### ***Claim Rejections - 35 USC § 101***

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 1-13, 15-28, 30-43, 45-58 and 60-71 are rejected under 35 U.S.C. 101 because the claimed invention is directed to a non-statutory subject matter.

For a claimed invention to be statutory, the claimed invention must produce a useful, concrete, and tangible result.

As per independent claims 1, 16, 31 and 46, the limitations of these claims do not produce a useful result. These claims all recite “based on *at least one* of the hazard function and gain in lifetime value”, and therefore, if determining the focus is based on the gain in lifetime value, the hazard function will not have any value, and the focus can not be determined, thereby resulting in a result that is not useful. Therefore, claims 1,

16, 31 and 46, and all claims that depend from them (Claims 2-13, 15, 17-28, 30, 32-45, 47-58 and 60-71) do not produce a useful result, and are therefore non-statutory.

As per independent claims 16 and 46, these claims are not concrete/tangible.

The variables of these claims recite no more than a bunch of modules, which in turn is software per se. Since these claims merely recite software per se, they produce no real world aspect and are therefore not concrete/tangible. Therefore, claims 16, 46, and all claims that depend from them, (Claims 17-28, 30 and 47-58 and 60), are not concrete/tangible, and are also therefore non-statutory.

### ***Response to Arguments***

4. Applicant's arguments with respect to claims 1-13, 15-28, 30-43, 45-58 and 60-71 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Akiba K Robinson-Boyce whose telephone number is 571-272-6734. The examiner can normally be reached on Monday-Friday 9am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hayes can be reached on 571-272-6708. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-7238 [After final communications, labeled "Box AF"], 703-746-7239 [Official Communications], and 703-746-7150 [Informal/Draft Communications, labeled "PROPOSED" or "DRAFT"].

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.



A. R. B.  
May 24, 2007